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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
WANG, JIN CHENG

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/864,107

Applicant(s)

VAN LIERE, FILIPS

Examiner

Jin-Cheng Wang

Art Unit

2628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 5-12, 14-19, 25-30, 32 and 33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of Item 11:

Applicant's arguments, filed March 15, 2007, with respect to claim 1 and similar claims have been considered but are not found persuasive in view of the ground(s) of rejection based on Echerer et al. U.S. Pat. No. 5,740,267 (hereinafter Echerer) in view of Fenster et al. U.S. Pat. No. 5,454,371 (hereinafter Fenster), Stockham et al. U.S. Pat. No. 6,081,267 (hereinafter Stockham) and Buxton et al. U.S. Patent No. 5,798,752 (hereinafter Buxton) FOR THE REASONS SET FORTH BELOW.

ANALYSIS OF PRIOR ART & RESPONSE TO ARGUMENTS

Echerer discloses enabling the generation of the measurement graphics (OF the same type or different types) without activation of ACTION BARS or image fields, OR CONTROL PANELS.

Echerer teaches using a mouse only without activating ACTION BARS or image fields, OR CONTROL PANELS. See e.g., column 12, lines 20-30; column 13, lines 25-50; column 15, lines 15-35. Echerer teaches measuring the length of the two points, measuring an area encircled by at least three points and measuring the angle between two lines formed by four points wherein the four points are specified as in column 21 for measuring the angle. In this setting, Echerer discloses enabling the generation of the measurement graphics without requiring a user to define a type of graphic being generated through the automatic analysis file wherein the measurement graphics is automatically generated (See column 17-18 wherein Echerer teaches using the pointer device to place points and identify the measurement graphic and thus enabling the generation of the measurement graphics without requiring a user to define a type of graphic being generated).

Echerer implicitly discloses the claim limitation, "displaying...said medical image...without the presence of menus, toolbars and control panels on said graphical interface". Echerer teaches in column 10, lines 1-10 displaying an image solely in one monitor without the presence of menus, toolbars and control panels on said graphical interface on the same monitor because buttons, slides and adjustment tools are displayed on another monitor, or an external monitor that has nothing to do with the monitor displaying the image and the graphical interface. Echerer teaches in column 10, lines 1-10 displaying a MEDICAL image solely in one monitor AND THEREBY ECHERER TEACHES DISPLAYING THE MEDICAL IMAGE, ESSENTIALLY UNOBSTRUCTED, IN A SUBSTANTIAL PORTION OF A GRAPHICAL INTERFACE. See Figs. 1, 4-5, 10A-11 of Echerer wherein Echerer teaches displaying the medical image essentially unobstructed in a substantial portion of a graphical interface wherein the user can freely manipulate the pointer/mouse to select points for measuring angles/distances/areas to generate at least three different measurement graphics.

Echerer implicitly discloses the claim limitation, "enabling the generation of the at least three measurement graphics without requiring a user to define in advance the type of measurement graphic being generated". Echerer's generation of the at least three different measurement graphics (OF THE SAME TYPE OR OF THE DIFFERENT TYPES) is performed at least through the automatic analysis file. THE MEASUREMENT GRAPHICS THUS GENERATED BY THE AUTOMATIC ANALYSIS does not require a user to click on the menus, toolbars and control menus AND NO DEFINITION IS GIVEN in advance TO the type of measurement graphic being generated. Moreover, Echerer teaches using the pointer device to place points and identify the measurement graphic (three measurement graphics of the same type or three measurement graphics of different types) and thus enabling the generation of the measurement graphics without requiring a user to define a type of graphic being generated. Moreover, Echerer teaches generating at least three different measurement graphics such as measurements of three different distances by clicking on three different pairs of points, separately and in the process of clicking, there is no requirement for a user to define the type of measurement graphic being generated on the monitor which solely displays the graphical image.

IMPORTANTLY, see column 19 wherein the entire list of measurement graphics of the same type or different types can be viewed on the monitor once the automatic analysis file can be obtained for the medical image. See column 18, the user extracts an automatic file for the image and then the entire list of measurement graphics are displayed on the monitor (See column 19). The extraction of an automatic file for the image is not the same as requiring a user to define in advance the type of measurement graphic being generated. Even if the type of measurement graphics is embedded in the automatic analysis file, the type of measurement graphics is not defined by the user, it is defined by an author/originator/creator/administrator of the image or any person other than "a user" set forth in the claim invention.

APPLICANT ARGUES THAT THE TEACHING OF COLUMN 17, LINES 54-56 OF ECHERER REQUIRES A USER TO DEFINE IN ADVANCE THE TYPE OF MEASUREMENT GRAPHICS BEING GENERATED. THE EXAMINER RESPECTFULLY DISAGREES WITH THE APPLICANT'S ARGUMENTS. A SET OF PROMPTS AND ASKING THE USER TO SELECT A LIST OF THE SPECIFIC ANALYSIS CANNOT BE EQUATED WITH THE TYPE OF MEASUREMENT GRAPHICS BEING GENERATED.

Fenster teaches the claim limitation of "displaying...said medical image...without the presence of menus, toolbars and control panels on said graphical interface" (Fenster discloses in column 23, lines 25-40 and Fig. 27 using the graphical input device to measure distances and areas of the three-dimensional image within the most recently moved plane without the presence of menus, toolbars and control panels on said graphical interface. Fenster teaches that the user uses the graphical input device to indicate the two end points over which the distance is to be measured and the user must identify at least three points if an area is to be measured. Fenster also teaches generating the measurement graphics without moving the pointer outside the medical image).

Fenster discloses enabling the generation of at least two different types of measurement graphics based only upon the actuation of

the at least one button of the mouse. Fenster at least teaches generating three measurement graphics within at least two different types based upon the actuation of the at least one button of the mouse.

Stockham discloses enabling the generation of at least three different measurement graphics based only upon the actuation of the at least one button of the mouse. Stockham discloses providing the angle measurement without the presence of the menus, toolbars and control panels on the medical image (See column 3, lines 40-45) and measuring the linear distance, angle, rectangular ROI, elliptical ROI etc (column 6, lines 1-5) and thereby Stockham discloses enabling the generation of the at least three measurement graphics without requiring a user to define in advance the type of measurement graphic being generated.

Therefore, having the combined teaching of Echerer, Fenster and Stockham, one of the ordinary skill in the art realize how to generate at least three different measurement graphics based only upon the actuation of the at least one button of the mouse. Moreover, Echerer discloses enabling the generation of at least three different measurement graphics without requiring a user to define a type of graphic being generated through the automatic analysis file wherein the measurement graphics is automatically generated (See column 17-18).

AS TO THE CLAIM LIMITATION OF "triple-point actuating/positioning", Buxton discloses the claim limitation of "triple-point actuation/positioning" (Buxton column 19, lines 55-67). Buxton discloses measuring the lengths, slopes and coordinates and slopes using the button tool and measuring the angle of the tripe points clicked wherein the angle is related to the middle point of the last three point clicked (See Buxton column 19, lines 55-67).

MOTIVATION ANALYSIS:

Echerer AT LEAST suggests the claim limitation by disclosing measuring the angle between two lines formed by four points wherein the four points are specified as in column 21 for measuring the angle. The example shows that the four points may be distinct from each other. However, one of the ordinary recognizes that the four points may include two identical points resulting in a three distinct points that is the same as what being claimed, i.e., the three point actuating/positioning by the user through an automatic analysis file specification of the three points for measuring an angle of the two rays formed by the three points or four points with two identical points. Therefore, Echerer suggests the claim limitation of "triple-point actuation/positioning".

Moreover, Echerer discloses enabling the generation of the measurement graphics without requiring a user to define a type of graphic being generated or without requiring a user specifying the type of graphic being generated using the menus through the automatic analysis file wherein the measurement graphics is automatically generated (See column 17-18).

Therefore, having the combined teaching of Echerer, Fenster, Stockham and Buxton, one of the ordinary skill in the art would have been motivated to measure the angle associated with three points as clicked by the user using the mouse because this allows the use of a click-through button tool that measures geometric properties (Buxton column 19, lines 55-67, ECHERER COLUMN 21).

